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November 13, 2015

**By ECF (courtesy copy by facsimile)**

Hon. Paul G. Gardephe  
United States District Judge  
United States District Court  
Southern District of New York  
40 Foley Square  
New York, New York 10007

Re: Vernon Jones v. City of New York, et al.,  
14 Civ. 8927 (PGG)

Dear Judge Gardephe:

I am a Senior Counsel in the New York City Law Department, assigned to represent the defendants in this matter. I am writing to update the Court regarding the discovery issue relating to the production of the video which was discussed in the parties' prior letters to the Court.

As defendants previously indicated in their letter, dated November 6, 2015, defendants produced the subject video to plaintiff over seven weeks ago. Defendants subsequently advised plaintiff that the video can be opened using a .g64 player which can be downloaded from the website of the company that licenses it or otherwise from any number of websites. Plaintiff has refused to do so. On Monday, November 9, 2015, the parties had a telephone conference with the Court's clerk, Mr. Raj Trehan, to discuss the matter. Mr. Trehan inquired if there were any further steps that the parties could attempt resolve the issue. Although defendants stand by the arguments stated in their November 6 letter and believe that plaintiff should make some independent effort to download the necessary software, as a courtesy to the Court and in the interest of moving this litigation forward, the undersigned indicated that he would check with the Law Department's IT department about any method by which the necessary software, which plaintiff refuses to download, can be provided to plaintiff.

I subsequently spoke with the Law Department's IT department about possible solutions and it was determined that they would attempt to extract the video from the CD provided by Department of Correction and burn it onto a new CD and also burn onto the new CD the necessary .g64 player software required to watch the video. As stated in defendants' prior letter, the format of the video cannot be altered or changed. However, it is the undersigned's hope and expectation that this method will provide the plaintiff with the software that he refuses to

download. On Thursday, November 12, 2015, I updated Mr. Trehan about the steps defendants will take to provide plaintiff with the software. Mr. Trehan requested that I also provide the Court with a letter updating those efforts.

Today, my IT department completed the work of placing the software onto a new CD along with the same copy of the video that was previously produced. I immediately updated plaintiff's counsel and advised him that the CD would be placed in today's mail. As noted, the format of the CD has not been altered in any way because, as previously advised, this is not possible. Instead, this new CD will simply provide plaintiff with the necessary software along with a duplicate copy of video in the same format as previously produced.

In light of the delays that have been caused by plaintiff's refusal to download the software to view the video, it is respectfully requested that if plaintiff still claims to be unable to open the video after receipt of this CD, that the Court order him to download the necessary .g64 player if he still desires to view the video. Plaintiff should receive the CD early next week.

I thank the Court for its time and attention to this matter.

Sincerely,

*/s/ Ben Kuruvilla*

Ben Kuruvilla

cc: **VIA ECF**  
David Thompson, Esq.